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EXAMINER

HAN, JASON

ART UNIT	PAPER NUMBER
2875	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,695

Applicant(s)

MCCARTHY, KENNETH WILLIAM

Examiner

Jason M. Han

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.
2. Overall, in response to Applicant's arguments, the prior art remains commensurate to the scope of the claims as stated by the Applicant within the context of the body of the claim language and as broadly interpreted by the Examiner [MPEP 2111], which is elucidated and expounded upon in the rejection below.
3. In response to Applicant's argument, "Applicant respectfully submits, however, that reference numerals 19 and 20 of the Benson, Jr. '434 Patent are not longitudinal side edges. Rather, they are downwardly extending side walls" [Page 10], Benson clearly teaches the sidewalls [Figure 2: (19, 20)] being longitudinal side edges, as construed by the Examiner, since said sidewalls would extend the length of the fixture [note Figures 1 and 3]. Regardless, the Applicant has provided no reference point in determining the actual longitudinal direction of the claimed invention. There is also no limiting factor in determining the extent of what an edge is, whereby the sidewall may be viewed as an edge.
4. In response to Applicant's argument, "None of the structures in the Benson, Jr. '434 Patent that define or form the open bottom of each reflector housing support or are releasably attached to a bridging plate or intermediate housing so as to disclose the longitudinal side edges of Applicant's invention as recited in Claim 1" [Page 10], it is noted that a broad interpretation has been applied to the Applicant's claim language.

First, Benson clearly teaches a pair of longitudinal side edges [Figure 2: (19, 20)] which form or define the open bottom [Figures 2-2A: (44)], as stated by the Applicant.

Second, Benson clearly teaches a bridging plate or intermediate housing [Figures 2-2A: (25, 27, 28, 29, 29a, 93, 97)] releasably attached to or supported by adjoining longitudinal side edges of each reflector housing [e.g., Figures 2-2A: (20)], as stated by the Applicant.

5. In response to Applicant's argument, "Applicant respectfully submits, however, there is no equivalent of a bridging plate or intermediate housing disclosed in the Benson, Jr. '434 Patent" [Page 11], a broad interpretation was applied, whereby insufficient context or limitations were provided in determining what exactly a bridging plate or intermediate housing entails.

6. Lastly, Applicant's argument, "Applicant respectfully submits that the invention disclosed in the Benson, Jr. '434 Patent is extremely complex and would be expensive to manufacture" [Page 11], is not germane to the issue of patentability due to the anticipation of every limitation as broadly interpreted by the Examiner.

NOTE: The following claims have been rejected in light of the specification, but rendered the broadest interpretation as stated by the Applicant within the context of the claim language and as construed by the Examiner [MPEP 2111].

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7, 9-10, 15-16, and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Benson, Jr. et al. (U.S. Patent 3,090,434).

8. With regards to Claim 1, Benson discloses a modular service unit including:

- A pair of elongate light fittings [Figure 2], each including:
 - = A reflector housing [Figures 2-2A: (17)] having one or more light tubes [Figures 2-2A: (34)], wherein each reflector housing is channel shaped having an open bottom [Figures 2-2A: (44)] and is provided with a pair of longitudinal side edges [Figures 2-2A: (19, 20)] which form or define the open bottom; and
 - = A bridging plate or intermediate housing [Figures 2-2A: (25, 27, 28, 29, 29a, 93, 97)] releasably attached to or supported by adjoining longitudinal side edges of each reflector housing, wherein the bridging plate or intermediate housing forms a structural part of an auxiliary service facility.

9. With regards to Claim 2, Benson discloses the intermediate housing forming a plenum housing [Figure 2: (29a)] which communicates with an air duct [Figures 1-2: (92); Column 4, Lines 62-63] to thereby form the auxiliary service facility.

10. With regards to Claim 3, Benson discloses the plenum [Figure 2: (29a)] housing having a connection spigot or socket [Figures 1-2: (90, 91)] which extends laterally of a longitudinal axis of the intermediate housing.

11. With regards to Claim 4, Benson discloses the intermediate housing having a pair of lower side walls [Figure 2A: (25 or 27)] which are each located inwardly of a proximal reflector housing and spaced therefrom.

12. With regards to Claim 5, Benson discloses each of the lower side walls [Figure 2: (27)] forming a pair of planar upper side walls [Figure 2: top flange of (27)] which then form a top wall [Figure 2: (18)] of the intermediate housing.

13. With regards to Claim 6, Benson discloses each of the lower side walls [Figure 2: (27)] merging into an associated planar side wall [Figure 2: top flange of (27) and (18)] above a top wall [Figure 2: (31)] of each reflector housing.

14. With regards to Claim 7, Benson discloses the intermediate housing including a layer of insulation [Figure 2: (94)].

15. With regards to Claim 9, Benson discloses the intermediate housing having an open bottom [Figure 2: (26)].

16. With regards to Claim 10, Benson discloses an air baffle [Figure 2: (25)] adjacent or within the open bottom.

17. With regards to Claim 15, Benson discloses a pair of end plates [Figure 3: (13)] wherein each end plate is attached to an adjacent end of a reflector housing.

18. With regards to Claim 16, Benson discloses a pair of end plates [Figure 3: (13)] wherein each end plate extends between each of the reflector housings and is attached to an adjacent wall of the plenum housing intermediate a top and bottom thereof.

19. With regards to Claim 18, Benson discloses each reflector housing [Figure 2: (17)] having a top wall [Figure 2: (31)] supporting a ballast [Figure 2: (33)] for the light tube wherein the top wall is the sole support for the ballast therefore not requiring any other support structure.

20. With regards to Claim 19, Benson discloses the modular service unit having a length which is approximately the same as each reflector housing [see Figure 1].

21. With regards to Claim 20, Benson discloses a plurality of longitudinal support members [Figure 1: (83)] and a plurality of transverse support members [Figures 1, 3: (85, 86)] and a plurality of modular service units [Column 4, Lines 48-54], wherein all or some of each pair of adjacent longitudinal support members each support an outer side edge of an adjacent reflector housing of each modular service unit.

22. With regards to Claim 21, Benson discloses each modular service unit being provided with a pair of end plates [Figures 1, 3: (13)] and all or some of each pair of adjacent transverse support members [Figures 1, 3: (85, 86)] supporting a proximal end plate of a respective modular service unit [Column 4, Lines 48-54].

23. Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Benson, Jr. et al. (U.S. Patent 3,090,434).

Benson discloses a modular service unit including:

- A pair of elongate light fittings [Figures 2-2A: (17)], each including:

- = A reflector housing [Figures 2-2A: (19, 20, 31)] having one or more light tubes [Figures 2-2A: (34)], wherein each reflector housing is channel shaped having an open bottom [Figures 2-2A: (44)] and is provided with a pair of longitudinal side edges [Figures 2-2A: (19, 20)] which form or define the open bottom; and
- = A bridging plate or intermediate housing [Figures 2-2A: (25, 27, 28, 29, 29a, 93, 97)] releasably attached to or supported by adjoining longitudinal side edges of each reflector housing, wherein the bridging plate or intermediate housing forms a structural part of an auxiliary service facility; and
- = Characterized in that each of the pair of elongate light fittings and the bridging plate or intermediate housing for a modular system of separate units releasably attached to each other [Column 2, Lines 22-26].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benson, Jr. et al. (U.S. Patent 3,090,434).

Benson discloses the claimed invention as cited above, but does not specifically teach the connection spigot or socket being releasably attached to an associated sidewall of the intermediate housing.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the spigot or socket separable/releasably attached to an associated sidewall of the intermediate housing, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. In this case, making the spigot or socket separable facilitates easy maintenance, repairs, or manufacturing.

25. Claims 11-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson, Jr. et al. (U.S. Patent 3,090,434) as applied to Claim 1 above, and further in view of Unger et al. (U.S. Patent 6,443,592).

26. With regard to Claims 11-14, Benson discloses the claimed invention as cited above, but does not specifically teach the bridging plate supporting a fire sprinkler apparatus forming the auxiliary service facility having a water conduit, hose, and sprinkler means located below the bridging plate (re: Claim 11); wherein the bridging plate supports the fire detection apparatus (re: Claim 12); the bridging plate supporting a speaker apparatus forming the auxiliary service facility (re: Claim 13); nor the bridging plate supporting a secondary light fitting which forms the auxiliary service facility (re: Claim 14).

Unger teaches a luminaire having an annular inner housing with a detachable annular louver support element for multifunctional devices, and discloses, "In the central

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portion 14A of the interior cavity 14 enclosed by the inner housing 18 is provided another annular web 70 on which accessory parts, in particular coverings, can be fastened. Also, on corresponding fastening or receiving means in the inner housing 18 according to the invention the most diverse installation parts, such as additional lamps, emergency light components, components for light management, smoke alarms, loudspeakers, monitoring cameras or other covering or decoration panes, can be accommodated. If the luminaire accessories are accommodated separately outside of the luminaire 10 and if the center of the luminaire roof 16 is punched out, free access to the hollow space of the ceiling is obtained and it is possible to introduce, for example, fresh and exhaust air devices, sprinkler devices and the like into the inner housing 18" [Column 4, Line 60 – Column 5, Line 7; underlines added for emphasis of the principle teachings].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the auxiliary service facility of Benson to incorporate the principle teaching of Unger, whereby a support element within an interior of a luminaire is provided with additional multifunctional configurations, such as a fire sprinkler apparatus, smoke alarm/fire detection apparatus, loud speakers, or secondary light fittings. Said configuration in addition may efficiently utilize space and improve overall aesthetics of a room/ceiling.

27. With regards to Claim 17, Benson in view of Unger discloses the claimed invention as cited above. In addition, Benson teaches a pair of end plates [Figure 3:

(13)], wherein each end plate has approximately the same height as each reflector housing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

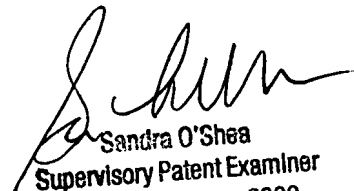
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason M Han
Examiner
Art Unit 2875

JMH (6/23/2007)



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800